

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

I. Introduction

Claims 1-16, 19-22 and 25 are cancelled. Claim 17 has been amended to incorporate the limitation of previously pending dependent claim 20. No new matter was added.

II. Claim 17 is presumed to be in condition for allowance

Applicants note that claim 20 was not rejected in the Final Office Action. Thus, claim 20 was presumed to be allowable. Therefore, the limitations of claim 20 have been incorporated into independent claim 17. Applicants submit that claim 17 is now in condition for allowance.

Applicants respectfully request entry of the amendment because it cancels all of the previously rejected claims and rewrites an apparently allowable dependent claim 20 in independent form as claim 17. This amendment raises no new issues and does not require further search or consideration because the examiner already considered claim 20 and did not reject this claim.

In the Final Office Action, claims 1-10 were rejected under § 112, ¶ 1 as lacking enablement, claim 12 was rejected as also lacking enablement, claims 11-12 and 17-18 were rejected under § 112, ¶ 2 as being indefinite, claims 4-15, 7-10, 14 and 24 were rejected under § 102(b) as being anticipated by Warren, claims 4-11, 14, 17-18, 23 and 25 were rejected under § 102(b) as being anticipated by Landucci and claims 15-16 were rejected under §103(a) as being obvious over Landucci. None of these rejections include claim 20. Therefore, these rejections are rendered moot by the cancellation of claims 1-16, 19-22 and 25 and by the incorporation of the limitations of claim 20 into claim 17.

IV. First Office Action

Applicants note that claim 20 was rejected in the First Office Action under § 112, ¶2 because it was allegedly unclear if the sample contained more than one polymer, especially if the polymer is a protein or a polypeptide. Claim 17, as presently amended, recites that the sample comprises a soft segment BPA polycarbonate polymer having two or more components. Illustrative examples of the BPA polycarbonate polymer components are described in the Rule 132 Declaration of Dr. Thomas Early. Thus, applicants submit that claim 17, as presently amended, satisfies §112, ¶2.

Furthermore, claim 20 was rejected in the First Office Action under § 112, ¶ 1 as lacking enablement because the application allegedly did not enable using the claimed method for samples containing a mixture of polymers, especially proteins. However, claim 17, as presently amended, excludes determining the concentrations of components of a mixture of polymers, such as a mixture of multiple proteins, and is considered to satisfy § 112, ¶ 1.

V. Objection to specification should be withdrawn

The Final Office Action also objects to the specification. This objection is respectfully traversed. The Office Action states that it is not clear which polymer was used in paragraph [0024] and that the specification does not state what happens to this polymer.

As discussed in the previous response, and as provided in paragraph [0022], as amended, the polymer referred to in paragraph [0024] is soft segment BPA polycarbonate. Applicants can amend the specification to recite soft segment BPA polycarbonate in paragraph [0024] if required in the next Office Action. Originally filed paragraph [0024] provides examples of how much polymer can be used in a particular solution to be characterized by the NMR method described in the specification. The figures do not show the NMR spectrum of the polymer sample. However, there is no requirement in the MPEP that the figures show the NMR spectrum of each example. Furthermore, there is no requirement for the specification to explain what further happens to the polymer sample. As discussed in Dr. Early's Declaration, one of ordinary skill in the art can use the claimed method to

determine the relative concentration of components in a soft segment BPA polycarbonate sample without under experimentation using their own knowledge, the specification and claims of the present application.

The Office Action further questions whether a portion of the specification is missing, since the BPA polycarbonate was mentioned in claims 12 and 20 but not in the specification. Applicants submit that the originally filed claims constitute a part of the application and may be used to meet the written description requirement. Thus, the description of soft segment BPA polycarbonate was incorporated into paragraph 0022 from the originally filed claims. Therefore, the application as filed should be considered complete and in compliance with § 112, ¶1. The examiner is respectfully requested to contact the undersigned representative if the examiner has any questions or suggestions for amending the specification.

VI. Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date

8/16/04

By



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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.